

UNITED STATES BANKRUPTCY COURT
DISTRICT OF MINNESOTA

In Re: Daniel J. Brtek and
Shannon M. Brtek,

Chapter 7
Bky Case No. 02-93661

Debtors.

**AMENDED NOTICE OF HEARING AND OBJECTION
TO PROOF OF CLAIMS NUMBERED 4, 7,
11, 16, 17, 19, 20, 21, 22, 24, 26, 33, 35, and 39**

TO: Debtors, Debtors' Attorney, Michael C. Mjoen, U.S. Trustee, and Claimant, Mike and Jolene Mau, as set forth on the attached service list and interested parties:

I.

Patti J. Sullivan, the duly appointed and qualified Trustee of the captioned bankruptcy estate, objects to the above proof of claims and gives notice of hearing herewith. This amended motion is being filed to include information regarding claim 17 in paragraph VI.

II.

The Court will hold a hearing on this objection on September 27, 2004, at 3:00 p.m., or as soon thereafter as counsel may be heard, in Courtroom No. 228B, at the United States Court House, 316 N Robert St., St. Paul, Minnesota 55101,

III.

Any response to this motion must be filed and delivered not later than September 20, 2004, which is seven days before the time set for the hearing, or filed and served by mail not later than September 17, 2004, which is ten business days before the time set for the hearing.

**UNLESS A RESPONSE OPPOSING THE MOTION IS TIMELY FILED, THE COURT
MAY GRANT THE MOTION WITHOUT A HEARING.**

IV.

This Court has jurisdiction in this matter pursuant to 28 U.S.C. Section 157 and 1334 and amendments thereto. This objection arises under 11 U.S.C. Section 502. Local Rule 3007-1 is applicable. This is a core proceeding under 28 U.S.C. §157(b)(2)(B).

V.

Trustee objects to the following: claim 4 filed by Guyers Builders Express in the amount of \$3,284.88; claim 7 filed by Action Rental in the amount of \$2,617.61; claim 11 filed by Arrow Building Center in the amount of \$5,032.89; claim 16 filed by Thomas and Sylvia Rielley in the amount of \$10,000.00; claim 17 filed by Mike and Jolene Mau in the amount of \$8,890.00; claim 19 filed by Rebuild Resources in the amount of \$2,493.94; claim 20 filed by Terry A. Bishop in the amount of \$78,701.93; claim 21 filed by Timothy and Karen Hoffmann in the amount of \$74,275.20; claim 22 filed by Oklahoma Student Loan Authority in the amount of \$7,369.34; claim 24 filed by Guyers Builders Express in the amount of \$2,736.91; claim 26 filed by Sears in the amount of \$680.76; claim 33 filed by Thomas and Sylvia Rielley in the amount of \$10,000.00; claim 35 filed by Terry A. Bishop in the amount of \$78,701.93; and claim 39 filed by Richard and Karen Carey in the amount of \$12,385.55.

VI.

* Trustee objects to the claims 4, **17**, 19, 20, 21, 24, 35, and 39 on the basis that the claims appear to be an attempt to collect on a debt owed by Brtek Construction, Inc. or Rocky Mountain Homes, Inc. Trustee objects to the claims on the basis that the claims appear to be an attempt to collect on a debt owed by Brtek Construction, Inc. or a corporate entity of the debtors. Despite the Trustee's request, the creditors have not provided documentation to establish the debt as a personal liability of the debtors. There is no indication that the debtors are in any way legally liable for the amounts that are listed on the proof of claims filed with the court. That debtors are

not indebted to said claimants for said sums or any other amount as claimants' claims are for debts owed by Brtek Construction, Inc. or Rocky Mountain Homes, Inc., and not said debtors.

VII.

Trustee objects to the claims 11, 22, 26, 33, and 35 on the basis that the claims appear to be duplicated. Despite the Trustee's request, the creditors have not withdrawn their duplicate claims. There is no indication that the debtors owe said creditors double of the original amount owed. Claim 11 filed by Arrow Building Center is a duplicate of claim 27; the Trustee received information from the creditor that claim 11 was filed in the wrong amount and claim 27 replaces and corrects claim 11. However, the creditor did not actually withdraw claim 11. Claim 22 filed by Oklahoma Student Loan Authority is a duplicate of claim 18. Claim 26 filed by Sears is a duplicate of claim 8. Claim 33 filed by Thomas and Sylvia Rielley is a duplicate of claim 16. Claim 35 filed by Terry A. Bishop is a duplicate of claim 20.

VIII.

Trustee objects to the claims 7 and 21 on the basis that the claims appear to be general unsecured non-priority claims, not priority claims. Despite the Trustee's request, the creditors have not amended their claims to general unsecured non-priority claims. There is no legal basis for the claims to be priority claims.

IX.

Trustee objects to the claims 16 and 33 on the basis that the creditors have not provided documents as requested by the Trustee and that claim 33 is a duplicate of claim 16. Therefore, it is impossible to make determinations regarding the validity of the claims without documentation.

In the event that an answer raises issues, which cannot be easily resolved at the hearing, Trustee may request the Court that the hearing be used as a scheduling conference and that further hearings be set by the Court.

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UNSWORN CERTIFICATE OF SERVICE

I, Joeline Kissinger, declare under penalty of perjury that on the 23rd day of September, 2004, I mailed a copy of the attached Amended Notice of Hearing and Objection to Proof of Claims Numbered 4, 7, 11, 16, 17, 19, 20, 21, 22, 24, 26, 33, 35, and 39 by first class mail postage prepaid to each entity named below or on the statement attached at the address stated below or in said attachment for each entity:

Michael C. Mjoen
6458 City West Pky Ste 100
Eden Prairie, MN 55006

United States Trustee
1015 United States Courthouse
300 South Fourth Street
Minneapolis, MN 55415

Daniel J. Brtek
13125 Lakamaga Trail
Marine on St. Croix, MN 55047

Shannon M. Brtek
13125 Lakamaga Trail
Marine on St. Croix, MN 55047

Mike and Jolene Mau
2200 Brittany Court
New Brighton, MN 55112

Executed on this 23rd day of September 2004.


Joeline Kissinger